

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,

v.

GABRIEL SANTANA CRUZ,

Defendant.

CRIMINAL ACTION NO.

1:05-cr-0250-WSD

ORDER

This matter is before the Court on Magistrate Judge Janet F. King's Final Report and Recommendation ("R&R") [263], which recommends denying as moot Gabriel Santana Cruz's Motion to Terminate All Collateral Attacks on Conviction [262]. Cruz seeks to terminate all collateral attacks on his conviction because he has started treaty transfer proceedings and the treaty transfer cannot occur until all collateral attacks on his conviction have ended. The R&R notes that all of Cruz's prior collateral attacks in this Court have been either denied or dismissed and that Cruz does not have any additional collateral attacks that are pending. Because there are no pending collateral attacks, the R&R recommends denying the motion to terminate all collateral attacks as moot.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). Where, as here, no party has objected to the R&R, the Court must conduct a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983), cert. denied, 464 U.S. 1050 (1984).

The Court has reviewed the docket and finds no indication that Cruz has any collateral attacks on his conviction that have not been denied or dismissed. The Court further notes that Cruz's last collateral attack on his conviction was dismissed on March 14, 2011, and that the time for appealing that Order has expired. The Court agrees with the Magistrate Judge that Cruz has no collateral attacks on his conviction pending in this Court and therefore adopts the recommendation to deny Cruz's motion as moot.

For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Janet F. King's Final Report and Recommendation [263] is **ADOPTED**. Gabriel Santana Cruz's Motion to Terminate All Collateral Attacks on Conviction [262] is **DENIED** as moot.

SO ORDERED this 24th day of October, 2011.


WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE